

RECEIVED

JAN 13 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)

Amendment of the Commission's)
Rules To Establish New Personal)
Communications Services)

GEN Docket No. 90-314

REPLY TO
OPPOSITIONS AND COMMENTS TO
PETITIONS FOR RECONSIDERATION

Metricom, Inc. ("Metricom"), by its attorneys, pursuant to Section 1.429(g) of the Commission's Rules, hereby submits this Reply to the Oppositions, Comments and other pleadings filed in response to Petitions for Reconsideration in the above-styled proceeding.^{1/}

1. In its Petition for Reconsideration, Metricom requested that the Commission assure the "any time, any place" availability of unlicensed data Personal Communications Services ("Data-PCS") by assuring that Data-PCS is not limited to a short-range, indoor only, service. Metricom illustrated that under the current power limits specified at new Section 15.319, the average range of a Data-PCS transmission is expected to be only about 11 meters.^{2/} In addition to the inherent problems with the limited range, Metricom pointed out that such limited range would greatly increase the need for additional equipment to achieve desired coverage

^{1/} Thirty-eight Oppositions, Comments or other type pleadings were filed.

^{2/} See Petition for Reconsideration and Clarification of Metricom (Dec. 8, 1993) at Appendix A.

No. of Copies rec'd
List A B C D E

4

making Data-PCS a very expensive service. To allow Data-PCS to reach its full potential, Metricom asserted that the rules governing Data-PCS must be reconsidered so that transmitter power limits in new section 15.319 are increased to the extent permitted by the standards for exposure to radio frequency ("RF") emissions.

2. Metricom also argued that new Section 15.323(b) should be reconsidered so that frequency hopping spread spectrum systems can operate in the band, and that new Section 15.323(f) be modified so that transmission bursts of more than 10 milliseconds are permitted.

3. The Commission should note that none of the Oppositions or other pleadings filed in response to the Petitions for Reconsideration took issue with Metricom's proposals. The Commission should, therefore, not hesitate to take the actions requested by Metricom. Such actions would serve the public interest by making more and better competitive services available to the public. Metricom endorses the position espoused by Ericsson Corporation in its Opposition wherein it stated: "Subpart D of Part 15 of the Commission's rules should encourage the most efficient use of limited spectrum and provide for the deployment of a wide variety of existing and future unlicensed PCS technologies. ... [T]here should be no Commission rules which artificially or arbitrarily preclude the implementation of any technology in the

unlicensed PCS band since that will only serve to deprive consumers of competitive choices."^{3/}

4. In this same spirit of assuring the provision a wide variety of competitive services to serve the public interest, Metricom also supports the positions of Pacific and Nevada Bell, Bell Atlantic, GTE, and Omnipoint in their respective pleadings^{4/} wherein they discuss AT&T's proposal that the unlicensed PCS band should not be made available for radio common carrier services.^{5/} Other than to limit the availability of new and innovative competitive services to the public, Metricom can envision no reason to exclude radio common carrier services from operations in the unlicensed PCS band. Such a limitation would create a "chilling effect" on the development and implementation of new services.

5. Moreover, there should be ample frequency spectrum available for unlicensed PCS provided by all interested entities because the Commission has allocated a significant portion of spectrum for this service, and has adopted a spectrum etiquette whereby all potential users of the unlicensed PCS band should be able to be accommodated. The Commission indicated that the PCS rules are intended "to provide ... the maximum flexibility to

^{3/} Opposition of the Ericsson Corporation to Petitions for Reconsideration (Dec. 30, 1993) at 1-2.

^{4/} Opposition and Comments of Pacific and Nevada Bell To Petitions For Reconsideration (Jan. 3, 1994) pp. 11-12; Opposition of Bell Atlantic Personal Communications, Inc. (Dec. 30, 1993) p. 13; Comments, GTE Service Corporation (Dec. 30, 1993) p. 5; Comments, Omnipoint Corporation (Jan. 3, 1994) pp. 12-13.

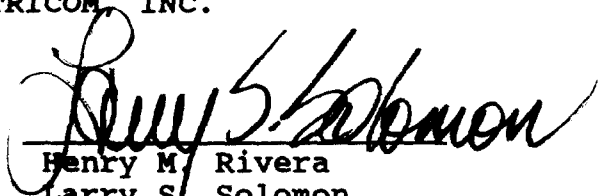
^{5/} AT&T Petition for Limited Clarification and Reconsideration (Dec. 8, 1993) at 6.

introduce a wide variety of new and innovative telecommunications services and equipment."^{6/} If the accommodation of all potential services in the unlicensed PCS band is not possible, the appropriate solution is not to limit the availability of unlicensed PCS; rather, it is to adopt a new spectrum etiquette or to allocate more spectrum to make the band available for all services.

WHEREFORE, the Commission is requested to reconsider and modify certain aspects of the PCS Order, consistent with the views expressed in Metricom's Petition For Reconsideration, and those views expressed herein, in order to eliminate unnecessary barriers to competition and to encourage the implementation of new and innovative services in the public interest.

Respectfully submitted,
METRICOM, INC.

By:


Henry M. Rivera
Larry S. Solomon
GINSBURG, FELDMAN & BRESS
CHARTERED
1250 Connecticut Avenue, NW
Washington, DC 20036
202-637-9000

ITS ATTORNEYS

Dated: January 13, 1994

^{6/} In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, Gen. Docket No. 90-314, FCC 93-451, 8 FCC Rcd. __ (Sept. 23, 1993) ¶ 1.

CERTIFICATE OF SERVICE

I, Wendy A. Yascur, a secretary in the law offices of Ginsburg, Feldman & Bress, Chtd., hereby certify that on this 13th day of January, 1994, a copy of the foregoing Reply To Oppositions and Comments To Petitions For Reconsideration was served, by U.S. mail, first class postage prepaid, upon the following:

David C. Jatlow, Esquire
The Ericsson Corporation
Young & Jatlow
Suite 600
2300 N Street, N.W.
Washington, D.C. 20037

Gary M. Epstein, Esquire
Nicholas W. Allard, Esquire
James H. Barker, Esquire
BELL ATLANTIC PERSONAL
COMMUNICATIONS, INC.
LATHAM & WATKINS
Suite 1300
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2505

Gail L. Polivy, Esquire
GTE SERVICE CORPORATION
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Nora E. Garrote, Esquire
OMNIPOINT CORPORATION, INC.
Piper & Marbury
1200 19th Street, N.W.
Washington, D.C. 20036-2430

James P. Tuthill, Esquire
Theresa L. Cabral, Esquire
Betsey Stover Granger, Esquire
PACIFIC BELL
NEVADA BELL
140 New Montgomery St., Rm. 1525
San Francisco, CA 94105

James L. Wurtz, Esquire
PACIFIC BELL
NEVADA BELL
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Francine J. Berry, Esquire
Kathleen F. Carroll, Esquire
Sandra Williams Smith, Esquire
AMERICAN TELEPHONE AND
TELEGRAPH COMPANY
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920


Wendy A. Yascur